

regard to the sealed cavity were persuasive inasmuch as the cavity was not present in the prior art, but reserved allowance subject to an updated search.

Rejections under 35 USC §103

1. The examiner has rejected claim 1, 2, 5-9, and 12-20 under 35 U.S.C. 103(a) as being unpatentable over Hiramoto (JP 8-102994), in view of Ono (JP 55-016546-A). While some of the speaker components are certainly present in the prior art, the claimed structure is not found. Particularly, the interview demonstrated that the sealed cavity required by the instant application is not present in the references cited by the examiner.

Examiner asserts that all the elements of independent claims 1, 8, and 15 are revealed in the cited prior art. However, the “sealed cavity” as demonstrated in the above-reference interview is not present in the prior art. The examiner has not shown, and the applicant cannot find, any reference to a “sealed cavity” for liquids as disclosed in Applicant’s disclosure. “All words in a claim must be considered in judging the patentability of that claim against the prior art.”¹ Thus, in the absence of any suggestion that the cavity of Hiramoto is sealed, which it is not, the claimed invention is not obvious.

Further, if the intended function of the prior art is destroyed, then a reference may not be properly combined to establish a *prima facie* case of obviousness.² Altering a speaker to permit the flow of fluid into it would most certainly damage the speaker’s internal components, as well as have a profound effect on the transducer’s ability to reproduce sound. It is for this reason that simply permitting a fluid connection to a speaker destroys critical properties of the speaker’s

¹ *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 CCPA 1970).

function. Similarly, if the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.³ Air cooling in a speaker design as in the prior art is a different principle entirely from the self-contained liquid coolant properties proposed in the claimed invention. Similarly, the lack of a sealed cavity in the prior art is vastly different from the design of the claimed invention. For these reasons, the prior art does not provide the obviousness basis that the examiner suggests.

CONCLUSION

Based on the above amendments and remarks, I believe that all of the claims in the case are allowable and an early Notice of Allowance is respectfully requested. If the Examiner believes a telephone conference will expedite the disposition of this matter, he/she is respectfully invited to contact this attorney at the number shown below.

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Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service, in an envelope addressed to: The Honorable Commissioner of Patents and Trademarks, P.O. Box 1450, Alexandria, VA 22313-1450 on this 12 day of April, 2004.

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² *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

³ *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)